

**REMARKS**

Favorable reconsideration of the present application is respectfully requested. Claims 6, 7 and 16-19 are currently pending in the application. Applicant has amended the Title to indicate the invention to which the claims are directed. Claims 1-5 and 8-15 have previously been canceled. The Amendment and remarks are believed to place all of the pending claims in condition for allowance.

Claims 6, 7 and 16-19 stand rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,725,120 to Ramsey et al. ("Ramsey") as applied to Claims 6 and 7 above, and further in view of U.S. Patent Application Pub No. 2002/0050493 to Ball et al. ("Ball"). Applicant respectfully traverses the rejection.

Regarding Claim 6, Claim 6 recites, *inter alia*:

“reforming the seal surface to a shallower angle than the initial angle of the seal surface down to and including 0° after the processing step.”

In addition to the reasons provided in the Amendment filed on June 28, 2010, and as the Examiner admits, Ramsey does not teach or suggest “reforming the seal surface to a shallower angle than the initial angle of the seal surface down to and including 0° after the processing step”, as recited in Claim 6. Likewise, Ball fails to teach or suggest “reforming the seal surface to a shallower angle than the initial angle of the seal surface down to and including 0° after the processing step”, as recited in Claim 6.

The Examiner is incorrect in stating that it would have been obvious to add a step which flattens the annular flange of Ramsey. First, it is noted that the flanges (“sealing surfaces”) of both Ramsey and Ball are rigid. Second, there is absolutely nothing in either Ramsey or Ball to suggest that a step could or would even have been considered to flatten the [rigid] flange when already the foil itself is flexible according to internal

pressure. In fact, **none** of the prior art cited for this application discloses or suggests “reforming” the seal surface. The “reforming” is only “obvious” if impermissible hindsight is used. As a result, there is no teaching or suggestion of “reforming” the seal surface, as recited in Claim 6. One of skill in the art would not be motivated to perform the reforming as recited in Claim 6, absent the use of impermissible hindsight construction using the teachings of the present application.

Therefore, Ramsey and Ball, either alone or in combination fail to disclose “reforming the seal surface to a shallower angle than the initial angle of the seal surface down to and including 0° after the processing step”, as recited in Claim 6. Accordingly, the Examiner is respectfully requested to formally withdraw the section 103 rejection of Claims 6 and 7.

Regarding Claim 16, Claim 16 uses similar terminology to Claim 6, by reciting: “reducing the seal surface angle to a shallower angle than the initial angle of the seal surface after the processing step.” Contrary to the Examiner’s assertion, Ramsey does not teach or suggest “reducing the seal surface angle to a shallower angle than the initial angle of the seal surface after the processing step.”

Regarding Claim 16, the Examiner is again incorrect in stating that Ramsey in view of Ball discloses reducing the seal surface angle to a shallower angle than the initial angle of the seal surface after the processing step. Only hindsight could lead one of skill in the art to this conclusion and that is not permissible. It takes more than ordinary skill to have the insight required to achieve the invention of each of the claims. Simply because Ramsey and Ball disclose different angles does not lead one of ordinary skill to consider a metal forming step, given all of the associated problems that it can entail, or to combine the two prior art documents. It is noted that the Ball patent is not even directed to

controlling in-can pressure during thermal processing. Instead, the can body of the Ball patent is filled with a carbonated beverage.

Therefore, in addition to the above arguments, the same arguments used in support of the non-obviousness of Claim 6 also apply to Claim 16 and dependent Claims 17-19 that depend therefrom. Accordingly, Applicant believes that Claims 16-19 also patentably distinguish over Ramsey and Ball and requests that the Examiner formally withdraw the rejection of Claims 16-19 and issue a Notice of Allowance for all of the currently pending claims.

Should the Examiner believe that any further action is necessary to place this application in better form for allowance, the Examiner's attention is drawn to the concurrently filed Applicant Initiated Interview Request Form, and is invited to contact Applicant's representative at the telephone number listed below to schedule an Interview.

The Commissioner is hereby authorized to charge to Deposit Account No. 50-1165 (T4515-16168US01) any fees under 37 C.F.R. §§ 1.16 and 1.17 that may be required by this paper and to credit any overpayment to that Account. If any extension of time is required in connection with the filing of this paper and has not been separately requested, such extension is hereby requested.

Respectfully submitted,

Date: June 2, 2011

By: /David R. Schaffer/  
David R. Schaffer, Esq.  
Reg. No. 43,089

Miles & Stockbridge, P.C.  
1751 Pinnacle Drive  
Suite 500  
McLean, Virginia 22102-3833  
(703) 903-9000